

ORDINANCE NO. _____, 2005

**“ENFORCEMENT AND COMPLIANCE OF SMOKING IN PUBLIC
PLACES AND PLACES OF EMPLOYMENT”**

- A. The Mayor for the City of Columbus shall appoint and designate a City Department(s), and/or employees to enforce Ordinance No. 19, 2005, Smoking in Public Places and Places of Employment., (hereinafter, “Smoking Ordinance”).
- B. Any citizen who desires to register a complaint under the Smoking Ordinance may initiate enforcement with the City Department(s) and/or employees as designated by the Mayor for the City of Columbus.
- C. The City Fire Department, or their designees shall, while in an establishment performing otherwise legal inspections, shall inspect for compliance with the Smoking Ordinance.
- D. Owners, managers, operators or employees of establishments regulated by the Smoking Ordinance shall inform persons seen violating the Smoking Ordinance of the requirements of the Smoking Ordinance. In the event an owner, manager, operator or employee of an establishment regulated by the Smoking Ordinance observes a person or persons violating the Smoking Ordinance, he or she shall immediately direct the person or persons in violation to extinguish the item being smoked.
 - 1. In the event the person [or persons] violating the Smoking Ordinance complies with this directive, no violation shall exist for the owner, manager, operator or employee witnessing the violation. In the event an owner, manager, operator or employee of an establishment regulated by the Smoking Ordinance observes a person or persons violating the Smoking Ordinance and fails to immediately direct the person [or persons] in violation to extinguish the item being smoked, the owner, manager, operator or employee failing to take appropriate steps required by the Smoking Ordinance shall be in violation of the Smoking Ordinance.
 - 2. In the event the person [or persons] violating the Smoking Ordinance fails or refuses to comply with this directive or refuses to leave the premises, the owner, manager, operator or employee directing the person [or persons] violating the Smoking Ordinance shall take immediate and reasonable steps to obtain the removal of the person [or persons] from the premises. In the event the person [or persons] violating the Smoking Ordinance is timely removed from the premises, no violation shall exist for any owner, manager, operator or employee related to the establishment in which these events occurred. In no event is an owner or agent of the

premises to forcibly remove the person violating the Smoking Ordinance. Compliance is achieved under this subsection if the owner or agent of the premises orders the person violating the Smoking Ordinance to leave its premises and promptly notifies the police if the person refuses.

3. In the event the person [or persons] violating the Smoking Ordinance fails or refuses to comply with this directive and the owner, manager, operator or employee who observed the violation or if a different person who directed the person [or persons] in violation to leave the premises, fails to take immediate and reasonable steps to obtain the removal of the person [or persons] from the premises, the owner, manager, operator or employee failing to take appropriate steps required by the Smoking Ordinance shall be in violation of the Smoking Ordinance.
 4. In all events, the establishment in which a violation occurs shall be in violation of the Smoking Ordinance for each violation that occurs on its premises and in connection with which the owner, manager, operator or employee fail to take appropriate steps required by the Smoking Ordinance.
 5. In the event all duties required under this Section are satisfied yet the person violating the Smoking Ordinance persists in his or her violation and/or refuses to vacate the premises on which the violation occurred, the owner, manager, supervisor and/or employee shall immediately contact one or more of the agencies or departments authorized above to enforce the Smoking Ordinance informing the agency or department of the circumstances of the violation.
 6. The mere presence of a person smoking within premises of an establishment governed by the Smoking Ordinance does not constitute a violation on the part of the establishment. The establishment and its agents shall only be charged for a violation of the Smoking Ordinance if the responsible agent[s] of the establishment fail to timely satisfy each responsibility prescribed for them in this Section.
- E. Notwithstanding any other provision of the Smoking Ordinance, the City, an employee, or any person aggrieved by a failure to comply with the Smoking Ordinance, whether by commission or omission, including violations on the part of an owner, operator, manager, employee or other person[s] in control of a public place or a place of employment covered by the Smoking Ordinance may bring legal action to enforce the Smoking Ordinance, in a court of competent jurisdiction.

The Smoking Ordinance shall be effective upon the date and time of its adoption.

ADOPTED by the Common Council of the City of Columbus, Indiana, this _____ day
of _____, 2005 at _____ o'clock ____ M., by a vote of _____ ayes and
_____ nays.

Presiding Officer

ATTEST: _____
Clerk-Treasurer of the City of Columbus

Presented to me, the Mayor of Columbus, Indiana, the _____ day of _____
2005 at _____ o'clock ____ M.

Mayor